

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number : 10/642,769 Confirmation No.: 3657  
Applicant : Robert D. WHITE  
Filed : 08/18/2003  
Title : System and Method for Managing Dedicated Use of a Credit Account  
TC/Art Unit : 3694  
Examiner: : Trotter, Scott S.  
  
Docket No. : 67519.001036  
Customer No. : **21967**

**MAIL STOP AMENDMENT**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION FOR EXTENSION OF TIME UNDER 136**  
**RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. 121**

Sir:

**Request For Extension Of Time**

Applicant respectfully requests a One-Month Extension of Time under 37 C.F.R. § 1.136(a) for responding to the Restriction Requirement mailed on January 16, 2008, in the above-captioned application. Accordingly, it is respectfully requested that the time for response be extended up to and including March 17, 2008, which is the next business day following the March 16 due date. Authorization to charge fees in the amount of \$120.00 as required under 37 CFR 1.17(a)(1) to Deposit Account No. 50-0206. In the event of any variance between the amount authorized and the fees determined by the U.S. Patent and Trademark Office, please charge or credit any such variance to the undersigned's Deposit Account No. 50-0206.

**Restriction Requirement**

Claims 1-35 are currently pending in this application, and are subject to a restriction requirement. The restriction requirement subjected the pending claims to restriction under 35 U.S.C. § 121, between one of the two following inventions:

**Invention I:** Claims 1-17, drawn to a method of managing a credit account, classified in class 705, subclass 44.

**Invention II:** Claims 18-35, drawn to apparatus for managing a credit account, classified in class 705, subclass 44.

Paragraph 2(a) of the Office Action states that “Inventions I and II are related as process and apparatus for its practice.” Paragraph 3 states that “The examiner has required restriction between combination and subcombination inventions.” Because the Office Action fails to elaborate on any alleged combination/subcombination distinction, Applicant assumes that restriction was required based on process/apparatus distinction (which is described in M.P.E.P. 806.05(e)) and not the combination/subcombination distinction (which is described at M.P.E.P. 806.05(a)). This assumption will be reflected in the remarks section below.

In addition to the restriction requirement, the Examiner also requires an election between various alleged species. Applicant would like to make note of possible typographical errors at pages 4 and 5 of the Office Action. Claims 23, 24, 27, 28, 32, and 33 are referred to under the heading of “Upon election of invention I above.” Applicant assumes that this should actually be “invention II” because claims 23, 24, 27, 28, 32, and 33 all fall within invention II and not invention I. This assumption will be reflected in the remarks section below.

If invention I is chosen, Applicant must select between the group of claims 3 and 13 or the group of claims 4 and 14. Applicant must further elect between the group of claims 6 and 15 or the group of claims 7 and 16. Applicant must further elect between claim 10 or claim 11.

If invention II is chosen, Applicant must select between the groups of claims 20 and 30 or the group of claims 21 and 31. Applicant must further elect between the group of claims 23 and 32 or the group of claims 24 and 33. Applicant must further elect between claim 27 or claim 28.

### **Election**

Applicant provisionally elects group I (claims 1-17). Of group I Applicant provisionally elects claims 3, 6, 10, 13, and 15. Applicant makes both of these provisional elections **with traverse**.

Responsive to the Restriction Requirement, please consider the following remarks.

### **Remarks**

Page 2 of the Office Action cites M.P.E.P. § 806.05(e) and states that a process and apparatus for its practice can be shown to be distinct inventions if: "(1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another materially different process." The Office Action then concludes that "In this case the method can be practiced by hand review of expense accounts to using company credit cards is well known."

Applicant respectfully disagrees that the methods recited in claims 1-17 can be practiced by hand review and thus respectfully request withdrawal of the restriction requirement. The M.P.E.P. provides that "A process can be practiced by hand if it can be performed without using any apparatus." (M.P.E.P. § 806.05(e)). Claims 1-17 recite methods related to a credit account of a credit card customer, which are well known to operate on a communications network. Applicant submits that the methods recited in claims 1-17 could not be fully performed as claimed without some level of involvement of a computing system apparatus of some kind. Thus, the claims can not be performed "by hand ... without using any apparatus."

For at least these reasons, the restriction between claims 1-17 and 18-35 is not proper. Applicant therefore respectfully requests that the restriction requirement be withdrawn.

Pages 3-5 of the Office Action sets forth several groups of claims as being species of a generic claim. The requirement of election between species is improper for several reasons.

First, the M.P.E.P. expressly states that "Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why each invention as claimed is either independent or distinct from each other; and (B) the reasons why there would

be a serious burden on the examiner if restriction is not required.” (M.P.E.P. § 808). M.P.E.P. § 808.02 further provides three explanations for establishing a serious burden. The first one of these is that the inventions are classified differently. Here, the Examiner has classified both inventions in Class 705 subclass 44. The two alleged inventions are therefore in the same field of search. Finally, the Examiner has not alleged that the inventions have formed a separate status in the art. The Office Action thus fails to establish any of the required reasons for insisting upon restriction. For at least these reasons, Applicant respectfully submits that the species grouping is improper. Accordingly, Applicant respectfully requests withdrawal of the election of species requirement.

Second, there is no evidence that the alleged species are independent or distinct, which is required in a restriction. Applicant respectfully submits that several of the claims in the alleged species are dependent upon the same independent claim. This dependency upon a common claim is evidence that the groups of alleged species are not independent or distinct as is required for a restriction. (see M.P.E.P. 808.01(a)).

Third, the Examiner has not properly identified a generic claim. The M.P.E.P. defines a generic claim and states that “In an application presenting three species illustrated, for example, in Figures 1, 2, and 3, respectively, a generic claim should read on each of those.” (M.P.E.P. § 806.04(d)). The Examiner does not identify a generic claim for group I. For group II, the Examiner states that “claim 18 appears generic.” Applicant respectfully disagrees with this statement, an note that restricted claims 32 and 33, for example, do not incorporate all of the elements of claim 18.

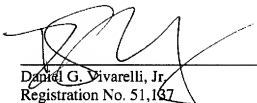
For at least these reasons, Applicant respectfully submits that the grouping of the claims into species was not proper under the standards of the M.P.E.P. Accordingly, Applicant respectfully requests that the election of species requirement be withdrawn.

**CONCLUSION**

It is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited.

Dated: 17 March 2008

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